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VIA ELECTRONIC MAIL: Green.Communities@MassMail.State.MA.US

Mr. Philip Giudice
Commissioner
Massachusetts Department of Energy Resources
100 Cambridge Street
Boston, MA 02114

**RE: Section 32 of chapter 169 of Acts of 2008; *Green Communities Act* - Alternative
Energy Portfolio Standard**

Dear Commissioner Giudice:

Pursuant to the request for comments issued by the Massachusetts Department of Energy Resources (“DOER”) at the Stakeholder Forum on the Alternative Energy Portfolio Standard held on September 29, 2008, and in furtherance of the requirements contained in the above referenced section of the Green Communities Act, the New England Power Generators Association, Inc. (“NEPGA”) hereby respectfully files these comments.¹ NEPGA represents sixteen companies and approximately 25,000 megawatts (or over 80 percent) of the generation in New England, and approximately 12,000 megawatts in Massachusetts.

As a part of the Green Communities Act, signed into law by Governor Patrick on July 2, 2008, the DOER has opened a stakeholder process to implement §32 of chapter 169 of the Acts of 2008 - Green Communities Act - as that provision altered G.L.c 25A §11F pertaining to the existing Renewable Portfolio Standard (“RPS”) to establish three separate standards -- a standard for “Class I” renewables, a standard for “Class II” renewables, and an alternative energy portfolio standard (APS). The Act also sets a goal of meeting at least 25 percent of electric load with demand-side resources including energy efficiency, load management, demand response, and distributed generation by 2020. Combined Heat and Power (“CHP”) systems with an annual efficiency of 60 percent or greater may count toward meeting the APS target, with the goal of achieving 80 percent efficiency for CHP systems by 2020.

¹ The views expressed in these comments do not necessarily represent the positions of each of NEPGA’s members. In addition, nothing in these comments should be deemed to waive any rights that NEPGA or any of its members may have to challenge the administrative, procedural or substantive validity of the proposed regulations.

I. Comments of NEPGA

1. How should the Annual APS percentage rate be determined, and what should that rate be?

The Annual APS percentage rate should be determined in a manner that achieves the goals of incenting alternative energy without burdening consumer costs. NEPGA suggests establishing the APS percentage rate at 1% total annual sales of each retail electricity product sold to Massachusetts end-use customers by a retail electricity supplier in 2009 in order to incent the initial market for alternative energy resources. After 2009, the minimum standard should increase by one percent per year until the DOER determines that the goals of the APS have been met.

2. What criteria should be required for any of the specified eligible technologies or fuels?

The criteria for any of the statutorily delineated alternative energy sources should not be limited in a manner that effectively eliminates an intended source in a manner that is contrary to the legislative intent. To that end, NEPGA disagrees with oral testimony at the September 29th hearing that sought to limit emissions in a manner that would disqualify otherwise beneficial technologies. NEPGA is specifically concerned that an arbitrarily low emission rate could disqualify valuable sources of CHP and serve as a disincentive to existing facilities to develop environmental upgrades that could further this initiative.²

CHP captures waste heat that is ordinarily discarded from conventional power generation; typically, two-thirds of the input energy is discarded to the environment as waste heat (up exhaust stacks and through cooling towers). This captured energy can be used to provide process heat, space cooling or heating for commercial buildings or industrial facilities, and cooling or heating for district energy systems. By providing electrical and thermal energy from a common fuel input, CHP significantly reduces the associated fuel use and emissions. Due to its higher efficiency compared to conventional central-station generating systems, CHP produces lower emissions of traditional air pollutants and carbon dioxide, the leading greenhouse gas associated with global climate change, than conventional generating systems.

The United States had approximately 85 gigawatts (GW) of CHP capacity in place as of 2007, yet the potential for substantial expansion is great. In 2000, the U.S. Department of Energy (DOE) and U.S. Environmental Protection Agency (EPA) set a goal to double the

² CHP is the sequential generation of power (electricity or shaft power) and thermal energy from a common fuel combustion source.

capacity of U.S. CHP installations by 2010.³ The DOER should not set arbitrarily low emissions rates that are contrary to the Green Communities Act and state and national energy policy.⁴

3. What should the Alternative Compliance Payment (ACP) amount be for APS, and how should it be calculated?

Prudent economic and energy policy dictates that the DOER should recognize that the revenue from the ACP for the APS is ultimately paid by the electric consumer. RPS revenues are only one of the cost adders that currently burden the consumer cost of electricity and, as such, should be limited. Accordingly, NEPGA recommends establishing a proper ACP by utilizing a more comprehensive stakeholder process consisting of balanced representation between supply-side and consumer-side interests to identify the issues relating to all parties. The stakeholder process should be narrowly focused and limited to the development of an ACP that adequately incents development of resources in satisfaction of the goals of the APS, and should not revisit the substantive merits of the APS.

4. What criteria should be applied to emission performance standards and permanent CO2 sequestration standards as referenced in the Act?

Emissions should be considered on a case-by-case basis through the implementation of an emissions optimization plan that is specific to each alternative energy resource and is administered by the Massachusetts Department of Environmental Protection, in conjunction with the DOER. The regulations should specify that the emissions optimization plan must be approved or denied by the agencies within 60-days of submittal of an administratively complete draft plan.

NEPGA proposes an additional methodology that enables the alternative energy resource to adjust the emission limitation for a CHP system and take into account emissions that will not be created by omitting a conventional separate system (e.g. boiler) to generate the same thermal output. NEPGA expects that the proposed methodology will have a positive impact upon air quality, mainly in the form of reductions in greenhouse gas emissions as less fuel is consumed to produce the same electrical and thermal energy outputs in a CHP system as compared to separate systems.

³ US DOE, Energy Information Association

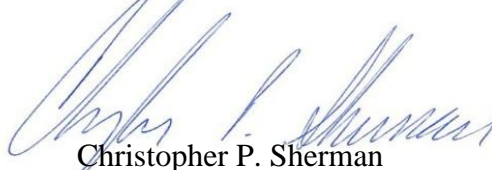
⁴ See, G.L.c. 111, §§ 142A through 142N; c. 21§§ 26 through 53; c.21A§§2, 13 and 16; and c.21C, (March 2008), The Massachusetts Department of Environmental Protection proposed additions and revisions to the Department's Air Pollution Control Regulations (310 CMR 7.00) to encourage the installation of CHP systems.

5. What specific means of monitoring and verification will be necessary for compliance with the APS regulation?

As with the Class I and Class II REC, the APS should be based on the amount of electricity generated by the qualified alternative energy source. NEPOOL's GIS tracks generation and even classifies RECs according to their eligibility to meet different state RPS requirements. The specificity with which the existing GIS system tracks resources is sufficient to ensure that retail suppliers are complying with the APS.

NEPGA appreciates this opportunity and requests that the DOER consider its comments as submitted herein. Please contact me at the information provided above if I can provide any further information.

Sincerely,



Christopher P. Sherman
General Counsel